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*Counsel for Nobuaki Kobayashi, in his capacity
as the Bankruptcy Trustee and Foreign Representative
of MtGox Co., Ltd., a/k/a MtGox KK*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

MtGox Co., Ltd. (a/k/a MtGox KK),

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 14-31229-sgj-15

MOTION TO CONTINUE BRIEFING DEADLINE

Nobuaki Kobayashi, in his capacity as the bankruptcy trustee and foreign representative (the “Foreign Representative”) of MtGox Co., Ltd., a/k/a MtGox KK (the “Debtor”), a debtor in a bankruptcy proceeding under Japanese law (the “Japan Bankruptcy”), currently pending before the Twentieth Civil Division of the Tokyo District Court, Japan (the “Tokyo Court”), by his

undersigned U.S. counsel, hereby moves (the “Motion”) to adjourn *sine die* the deadline by which any interested party may submit a letter brief on the issue of the scope of the automatic stay under Japanese bankruptcy law (the “Stay Briefs”), which is currently set for April 29, 2014 at noon (prevailing Central Time). In support of the Motion, the Foreign Representative respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

2. Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

BACKGROUND

3. On February 28, 2014, the Debtor, through its prior foreign representative, Mr. Robert Marie Mark Karpeles, filed a petition (the “Japan Petition”) for the commencement of a civil rehabilitation proceeding (the “Japan Civil Rehabilitation”) in the Tokyo Court pursuant to Article 17(1) of the Japanese Corporate Reorganization Act (*Kaisha Kosei Ho*) (the “JCRA”).

4. On March 9, 2014, the Debtor filed a voluntary petition for relief under chapter 15 of title 11 of the United States Code (the “Bankruptcy Code”) with the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Court”), under the above-captioned case number 14-31229-sgj-15 (the “Chapter 15 Case”) and filed its *Verified Petition for Recognition and Chapter 15 Relief* [Docket No. 2] (the “Recognition Petition”).

5. On March 10, 2014, the Debtor filed the *Emergency Application for an Order Granting Provisional Relief Pursuant to Section 105(a) and 1519 of the Bankruptcy Code, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice* [Docket No. 4] (the “Provisional Relief Application”). On the same day, the Court entered its *Order Granting*

Application for Provisional Relief, Scheduling Recognition Hearing, and Specifying Form and Manner of Notice [Docket No. 13] (the “Provisional Relief Order”), which, among other things, established a date for the hearing on the Recognition Petition (the “Recognition Hearing”). On April 15, 2014, the Court entered the *Order Adjourning the Recognition Hearing and Granting Emergency Motion to Approve Notice Procedures* [Docket No. 83], which, among other things, adjourned the Recognition hearing to May 20, 2014 at 9:30 a.m.

6. On March 25, 2014, Gregory D. Greene and Joseph Lack, plaintiffs in the U.S. Litigation Matters,¹ filed their *Motion for Termination of Provisional Relief* [Docket No. 37] (the “Motion to Terminate”). At a status conference held on April 1, 2014, the Court adjourned the hearing on the Motion to Terminate (the “Termination Hearing”) to May 6, 2014 at 9:30 a.m. See Notice of Hearing [Docket No. 67].

7. On March 25, 2014, Mr. Greene and Mr. Lack also filed their *Motion for an Order Pursuant to Bankruptcy Rule 2004 Compelling Deposition Testimony in the United States From the Foreign Representative* [Docket No. 39] (the “Motion to Compel”). Importantly, the Motion to Compel was directed at deposing the Debtor’s former foreign representative, Mr. Robert Marie Mark Karpeles, who has since been replaced by Mr. Kobayashi as the Debtor’s foreign representative, as further explained below.

8. On April 4, 2014, following a hearing on the Motion to Compel, the Court entered the *Order Granting, With Modifications, the Motion of Creditors Gregory Greene and Joseph Lack for Order Compelling Deposition Testimony in the United States From the Foreign Representative* [Docket No. 72] (the “Deposition Order”). Pursuant to the Deposition Order, the deposition of Mr. Karpeles (the “Karpeles Deposition”) was scheduled for April 17, 2014 in Dallas, Texas.

¹ The U.S. Litigation Matters are (i) *CoinLab, Inc. v. Mt. Gox KK*, et al., Case No. 2:13-cv-0777 (W.D. Wash. May 2, 2013) and (ii) *Greene v. MtGox Inc.*, et al., Case No. 1:14-cv-01437 (N.D. Ill. Feb. 27, 2014).

9. On April 14, 2014, the Debtor filed its *Emergency Motion for Continuance of Deposition* (the “Motion for Continuance”) [Docket No. 76], seeking, among other things, a continuance of the Karpeles Deposition from April 17, 2014 to May 5, 2014, or such other date as agreed to among the parties.

10. On April 16, 2014, the Tokyo Court entered judgments (the “Japan April 16 Judgments”) as follows: (a) dismissing the Japan Petition; (b) ordering administration of the Debtor’s assets by Mr. Kobayashi, in the capacity of a provisional administrator; (c) prohibiting certain actions by creditors with regard to properties of the Debtor during the interim period following the dismissal and prior to the commencement of a bankruptcy procedure for the Debtor (the “Japan Bankruptcy”); and (d) prohibiting Mr. Kobayashi, in his capacity as the provisional administrator, from undertaking certain actions with respect to the Debtor’s debt, properties, and claims.

11. On April 16, 2014, the Bankruptcy Court held a status conference and a hearing on the Motion for Continuance.

12. On April 17, 2014, the Court entered the *Order Granting Continuance of Deposition* [Docket No. 90] (the “Continuance Order”). Pursuant to the Continuance Order, the Court scheduled a status conference (the “Status Conference”) for April 24, 2014 at 9:30 a.m. or at such date and time shortly thereafter when the Foreign Representative can attend telephonically. In addition, the Court ordered that any interested party may submit a Stay Brief so that such Stay Briefs are submitted to the Court by noon on the day immediately preceding the date of the Status Conference. The First Continuance Order also ordered the parties to meet and confer to develop a proposed schedule for matters in this Chapter 15 case.

13. On April 22, 2014, the Debtor filed the *Motion to Adjourn and Reset Status Conference* [Docket No. 98] (the “Adjournment Motion”), seeking (a) to adjourn and reset the

Status Conference to April 30, 2014 at 9:30 a.m. and (b) to extend the deadline for submitting the Stay Briefs. The Adjournment Motion was agreed to by all parties present at the April 16, 2014 status conference (the “Status Conference Parties”).

14. On April 23, 2014, the Court entered the *Order Granting Adjournment and Resetting of Status Conference* [Docket No. 99] (the “Adjournment Order”). Pursuant to the Adjournment Order, the Status Conference was adjourned to April 30, 2014 at 9:30 a.m. (prevailing Central Time) and the deadline to submit the Stay Briefs was extended to April 29, 2014 at noon (prevailing Central Time).

15. On April 24, 2014, the Tokyo Court entered an order formally commencing the Debtor’s Japan Bankruptcy and appointing Mr. Kobayashi as bankruptcy trustee (the “Japan Bankruptcy Order”). A copy of the Bankruptcy Order and its English translation are attached hereto as **Exhibit A**.²

16. Following entry of the Japan April 16 Judgments, the Foreign Representative retained Brown Rudnick LLP and Gardere Wynne Sewell LLP to represent the Foreign Representative in this Chapter 15 case and, on April 25, 2014, those firms filed notices of appearance in this Chapter 15 case. See Docket Nos. 102 and 103.

17. On April 25, 2014, the Status Conference Parties met and conferred (the “Meet and Confer”) regarding the status of this Chapter 15 case in light of the entry of the Japan Bankruptcy Order and other changed circumstances described above, including the transition of the Japanese proceeding from a Japan Civil Rehabilitation to a Japan Bankruptcy and the appointment of Mr. Kobayashi as the bankruptcy trustee for the Debtor. The Status Conference

² The Foreign Representative, through his U.S. counsel, will shortly be filing a notice, pursuant to 11 U.S.C. § 1518, regarding the change in status of the foreign proceeding and the foreign representative’s appointment.

Parties have all agreed that as a result of these changed circumstances, the Stay Briefs are no longer necessary at this time.

RELIEF REQUESTED

18. Thus, by this Motion, the Foreign Representative respectfully seeks entry of an order, substantially in the form attached hereto as **Exhibit A**, adjourning *sine die* the deadline by which any interested party may submit a Stay Brief on the issue of the scope of the automatic stay under Japanese law.

CERTIFICATE OF CONFERENCE

19. On April 25, 2014, counsel to the Foreign Representative, through his U.S. counsel, facilitated the Meet and Confer with all Status Conference Parties regarding the status of this Chapter 15 case.

20. At the Meet and Confer, the Status Conference Parties agreed that the Stay Briefs were no longer necessary at this time and also agreed to confer regarding a revised scheduling order (the “New Scheduling Order”) for this Chapter 15 case in light of the changed circumstances described above. The Status Conference Parties intend to address the New Scheduling Order at the Status Conference scheduled for April 30, 2014.

21. Counsel for the Foreign Representative has conferred with counsel for plaintiffs Gregory Greene and Joseph Lack and counsel for CoinLab, Inc. and was advised that they were not opposed to this Motion.

22. Counsel for the Foreign Representative also contacted the U.S. Trustee’s attorney’s office to discuss the relief requested in this Motion. The U.S. Trustee’s attorney in charge of this case was not available to discuss the relief requested in this Motion. So the U.S. Trustee’s attorney’s office could not comment on the relief requested in the Motion.

CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests that this Court grant the Motion and enter an order, substantially in the form attached hereto as **Exhibit A**, (a) adjourning *sine die* the deadline by which any interested party may submit a Stay Brief on the issue of the scope of the automatic stay under Japanese law, and (b) granting the Foreign Representative such other and further relief as the Court deems just and proper.

Dated: Dallas, Texas
April 28, 2014

GARDERE WYNNE SEWELL LLP

/s/ Marcus A. Helt

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*Counsel for Nobuaki Kobayashi, in his capacity
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Exhibit A:
Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
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In re:

MtGox Co., Ltd. (a/k/a MtGox KK),

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 14-31229-sgj-15

ORDER GRANTING CONTINUANCE OF BRIEFING DEADLINE

Upon the Foreign Representative's *Motion to Continue Briefing Deadline* [Docket No.] (the "Motion"),¹ seeking to adjourn *sine die* the deadline by which any interested party may submit a letter brief on the issue of the scope of the automatic stay under Japanese bankruptcy law, which is currently set for April 29, 2014 at noon (prevailing Central Time), to a later date to be determined; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice

¹ Capitalized terms referred to but not defined herein shall have the meanings ascribed to them in the Motion.

is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED.
2. The deadline for submission of the Stay Briefs is hereby adjourned *sine die*.

END OF ORDER

Prepared and Submitted by:

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/s/ Marcus A. Helt

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